

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

Bankruptcy No.: 04-60106

In Re:

Daniel S. Miller,

Debtor.

Unsecured Creditor's Committee and  
Brian Erickson, Individually and as  
Co-Chair of the Unofficial Committee  
of Unsecured Creditors,

Plaintiffs,

Adv. No. 04-6131

v.

Daniel S. Miller,

Defendant.

**NOTICE OF MOTION AND MOTION FOR JUDGMENT ON PLEADINGS**

TO THE PLAINTIFF OFFICIAL UCC OF DANIEL MILLER, BRIAN ERICKSON, AS CO-CHAIRMAN OF UCC AND ITS ATTORNEY KIP KALER, KALER LAW OFFICE, 111 ROBERTS STREET, P.O. BOX 423, FARGO, NORTH DAKOTA.

1. Daniel S. Miller, Debtor in this Chapter 7 proceeding, by and through his duly authorized and undersigned attorney, moves the Court for the relief requested below and gives notice of hearing herewith.

2. The Court will hold a hearing on this motion on October 27, 2004, at 10:30 o'clock a.m., or as soon thereafter as counsel may be heard, before the Honorable Dennis D. O'Brien, United States Bankruptcy Judge, 204 U.S. Courthouse, 118 S. Mill Street, Fergus Falls, Minnesota 56537.

3. Any response to this motion must be filed and delivered not later than 10:30 a.m. on

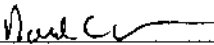
October 26, 2004, which is 24 hours before the time set for the hearing, or file and served by mail not later than October 22, 2004, which is three days before the time set for the hearing, exclusive of weekends and holidays. UNLESS A RESPONSIVE PLEADING OPPOSING THIS MOTION IS TIMELY FILED, THE COURT MAY GRANT THIS MOTION WITHOUT A HEARING.

4. The Defendant, Daniel Miller hereby moves the Court for judgment pursuant to Rule 7012(b) and Federal Rules of Civil Procedure 12(c) for judgment on the pleadings against the Unsecured Creditors Committee. The Plaintiff UCC's Complaint must be dismissed as the Unsecured Creditor's Committee has no standing to prosecute a discharge action under 11 U.S.C. §727.

5. At the hearing on this matter, the Defendant will rely upon the Complaint filed with the Court, as well as the Memorandum attached hereto.

Dated this 12th day of October, 2004.

FLUEGEL, HELSETH, MCLAUGHLIN,  
ANDERSON & BRUTLAG, CHARTERED

  
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